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DISTRICT COURT
SACRAMENTO, CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WILSON & COUSINS DIVISION OF
PALAMAR INDUSTRIES, INC.,

Plaintiff,

v.

T. CHRISTY ENTERPRISES, INC.,

Defendant.

CV 08

Case No. _____

PJH
0098

PLAINTIFF WILSON & COUSIN'S
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY
INJUNCTION

Date: As Soon As Court May Hear Matter
Time: As Soon As Court May Hear Matter

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Plaintiff Wilson & Cousins Division of Palamar Industries, Inc. (Wilson & Cousins) hereby applies for a temporary restraining order (TRO) enjoining Defendant T. Christy Enterprises (Christy) from:

1. Selling or distributing any check valve or hose nozzle products not manufactured by Wilson & Cousins that feature the Wilson and Cousins UL or ULC Listing Mark, the unique Wilson & Cousins Listing Mark Control number (*i.e.*, 27GH), or a confusingly similar combination of approval marks, designations, and other indicators used by Wilson & Cousins; and

1 2. Displaying or depicting Plaintiff's Wilson & Cousins' trademarks or trade
2 dress in its catalogs, on its website, or in any advertising or promotional materials in order to
3 sell or distribute products not manufactured by Wilson & Cousins.

4 Plaintiff Wilson & Cousins also hereby applies for an order to show cause why a
5 preliminary injunction should not be issued enjoining Defendant Christy from committing or
6 performing the above described acts during the pendency of this action.

7 GROUNDS FOR RELIEF

8 Wilson & Cousins is a fire protection equipment manufacturer. Christy is a distributor
9 of waterworks equipment, including fire protection equipment. Christy currently depicts
10 Wilson & Cousins' products and trademarks in its on-line catalogs, and does so without
11 Wilson and Cousins' authorization. Moreover, when that product is ordered, Christy does not
12 ship Wilson & Cousins product; rather, it ships a "knock-off" product which closely mimics
13 the design of Wilson & Cousins' product, and does so in an effort to pass them off as such. In
14 light of the foregoing, it is essential that the Court issue the requested temporary restraining
15 order and order to show cause to prevent immediate and irreparable injury because:

16 1. Plaintiff Wilson & Cousins would suffer immediate, irreparable loss and
17 damage before the Court can hear and decide a motion for a preliminary injunction. In
18 particular, as shown in paragraphs 23 and 24 of the supporting Declaration of Jeffrey
19 Saunders, Defendant's use of Wilson & Cousins' trademark and trade dress to sell knock-off
20 products will cause immediate, irreparable injury to Wilson & Cousin's business reputation
21 and goodwill, which has been earned and developed after more than 125 years of experience
22 in the manufacturing industry. If the knock-off products are of inferior quality, or should they
23 fail to meet certain specifications, they may fail to function properly to prevent or mitigate
24 fire damage and the harm to persons or loss of life. In addition, Wilson & Cousins may face
25 claims of liability as those who purchased such products under the belief that they were
26 purchasing a Wilson & Cousins product may bring suit or otherwise seek to impose liability
27 upon Wilson & Cousins for perceived product failure. Such occurrences and claims will
28 undoubtedly irreparably harm Wilson & Cousins business reputation.

1 2. The potential injury to Defendant by the temporary restraining order sought
2 could not possibly counterbalance the irreparable injury to Plaintiff if Defendant's conduct is
3 not restrained. As demonstrated in the supporting Memorandum of Points and Authorities
4 and Declaration of Jeffrey Saunders, Defendant lacks the legal right to sell products that
5 deliberately infringe on Plaintiff's trademarks and trade dress. Defendant further lacks the
6 legal right to use Plaintiff's marks in advertising material or catalogs to sell knock-off
7 products. The only potential injury Defendant faces is the loss of profits that it would
8 otherwise continue to illegally reap from selling knock-off Wilson & Cousins products.
9 Furthermore, the products at issue here only represent a few among the hundreds of products
10 that Defendant sells through its catalogs. Thus, it is not the case that Defendant's business
11 would be shut down if it were prevented from continuing to sell and market knock-off Wilson
12 & Cousins products.

13
14 NOTICE OF REQUEST FOR TRO

15 As shown in the attached Certificate of Counsel, reasonable efforts have been made to
16 notify Defendant of this motion. On Monday, January 7, 2008, Plaintiff's counsel, not aware
17 that any attorney represents Defendant T. Christy Enterprises at this stage of the proceedings,
18 sent email messages addressed to Jonathan Christy, the person known to be agent for service
19 of process of Defendant T. Christy Enterprises, and Tom Christy, the founder and apparent
20 principal at the company, at the address info@tchristy.com. In this message, counsel
21 informed him that Plaintiff's counsel would be appearing in this court at this time to seek this
22 temporary restraining order. Counsel also attached to these emails all of the papers filed in
23 this action, causing a copy of the papers to be electronically delivered to Messrs. Christy and
24 Christy. A copy of these email messages is provided for the Court as Exhibit 1 to the attached
25 Certificate of Counsel and is authenticated therein.

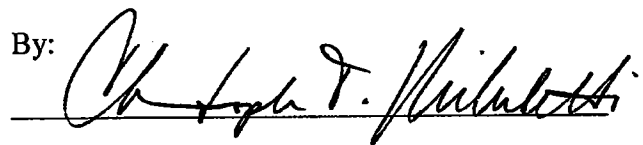
SUPPORTING MATERIAL

This application is based on this document, on the submitted Memorandum of Points and Authorities, the Certificate of Counsel, the supporting Declaration of Jeffery Saunders, the Complaint, all other papers filed in this action, and on whatever argument and evidence that may be presented at the hearing of this application.

Dated: January 7, 2008

Respectfully submitted,

By:



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